

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UMAR S. MUHAMMAD,)
)
Plaintiff)
) No. 1:07-0002
v.) Judge Trauger/Brown
)
GEORGE LITTLE, et al.,)
)
Defendants)

TO: The Honorable Aleta A. Trauger

REPORT AND RECOMMENDATION

The Plaintiff in this matter has moved for a temporary restraining order (Docket Entry 98) to restrain the Warden of the Whiteville Correction Facility, Whiteville, Tennessee, from depriving the Plaintiff from receiving indigent copies and requiring prepayment for all copies. The Defendants have responded to this motion (Docket Entry 100). For the reasons stated below. The Magistrate Judge recommends that this motion for temporary restraining order be DENIED without prejudice to being refiled in the Western District of Tennessee.

I. Background

This is litigation by the Plaintiff Umar S. Muhammad against a large number of state employees. The Plaintiff, proceeding *pro se*, is an inmate who practices the teaching of Islam. In mid-2005, he was confined at the Turney Center Industrial Prison. While there, the Plaintiff's request to purchase Muslim prayer oil and keep the oil in his cell was denied. The Plaintiff claims that when he protested this, he and other

Muslim prisoners were subjected to various forms of retaliation and harassment. That case is presently set for trial on August 12, 2008, with a final pretrial conference on July 14, 2008 (Docket Entry 94).

The Defendants, in their response (Docket Entry 101), argue that this motion is not properly filed in the Middle District of Tennessee. They point out that the Plaintiff is an inmate now incarcerated at Whiteville Correctional Facility in Hardeman County, Tennessee, which is in the Western District of Tennessee. Claims against the warden at that institution, have previously been severed, and those cases transferred to the Western District (Docket Entry 81).

The Magistrate Judge believes that the Defendants are correct and this motion, which involves policies of the Institution located in the Western District of Tennessee, should be heard in that District (Docket Entry 100).

III. Recommendations

For the reasons stated above, the Magistrate Judge recommends that the motion for a temporary restraining order in this matter be denied without prejudice to being refiled in the Western District of Tennessee.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has ten (10) days from receipt of this Report and Recommendation in which to file any written objections to this Recommendation, with the District Court. Any party opposing said

objections shall have ten (10) days from receipt of any objections filed in this Report in which to file any responses to said objections. Failure to file specific objections within ten (10) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. *Thomas v. Arn*, 474 U.S. 140, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985), *reh'g denied*, 474 U.S. 1111 (1986).

ENTERED this 10th day of March, 2008.

/s/ Joe B. Brown
JOE B. BROWN
United States Magistrate Judge